

CITY of BURIEN
Department of Community Development

Interpretation # 07-02

Subject: Allowing replacement of existing utility poles for placement of Personal Wireless Service Facilities (PWSF) with a utility pole of greater than the fifteen-foot extension provided by the Zoning Code based on utility construction and safety standards.

Interpretation: This interpretation is intended to modify language in BMC 19.50.030.9.A to allow extensions of greater than fifteen feet for new utility pole support structures based on utility construction and safety standards, provided that the extension does not violate specific conditions of approval or other applicable codes and ordinances.

Findings of Fact:

- *The defined or common meaning of the words of the provision:*

BMC 19.65-Procedures

- BMC 19.50.50.030.9 Locating on Utility Poles states: “The requirements in this section are not subject to a variance (BMC 19.65.085). PWSF located on utility poles shall conform to the following design criteria:”.
- BMC 19.50.030.9.A states: “The utility pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a PWSF; provided, that the new pole shall not exceed a height that is a maximum of fifteen (15) feet taller than the existing pole;”
- BMC 19.50.030.9.I states: In all cases where a utility pole is replaced for the purposes of accommodating a PWSF installation, the cables and other wiring necessary for the PWSF shall be routed inside the new pole. If routing inside the new pole is not allowed by the utility and that determination is confirmed in writing by the utility, then all cable, wiring and conduit routed outside the pole shall be painted to match the pole;”
- *The general purpose of the provision as expressed in the provision; the logical or likely meaning of the provision viewed in relation to the Comprehensive Plan and applicable purpose and intent statements in this Code.*

There are no purpose and intent statements specifically related to the issue of extensions of utility pole height beyond that already specified in the code. The Comprehensive Plan does not contain any specific guidance related to this issue, but there are two policies which relate to the placement of telecommunications facilities in residential areas. Policy UT 1.11 states: “New or expanded facilities should be compatible with surrounding land uses; such facilities should have a minimal impact on the natural or built environment.” Policy UT 1.12 states: “All facilities provided in accord with these policies shall be constructed at the design standards specified by each provider’s system plan.”

The Zoning Code establishes standards for the development of telecommunications facilities within the City of Burien, but those standards are also related to the technology and the competitive marketplace that exists for communications services. BMC 19.50.010 states: “These standards were developed to protect the public health, safety and welfare, to protect property values and minimize visual impacts while furthering the development of enhanced telecommunications services in Burien. These standards were designed to comply with the Telecommunications Act of 1996.”

Conclusions:

Zoning Code provisions relating to PWSF's were developed with the knowledge and involvement of communications providers, as well as, the utility providers, on whose facilities PWSF's can be collocated. The fifteen foot extension provision was developed based on utility providers current construction and safety standards to provide adequate separation between power transmission lines and communication antennas and other associated equipment. The standards that were in effect at the time the Zoning Code was written, indicated that fifteen feet was a reasonable and safe separation distance. As technology advances and as utility provider facilities are upgraded over time, the original fifteen-foot distance may not be sufficient in all instances. Telecommunications providers could conceivably be put in the position of receiving zoning approval from the City of Burien for a utility pole installation, yet be denied use of the utility pole by the utility provider based on safety or separation concerns.

Discretion is already provided in BMC 19.50.030.9.I for those instances where pole replacement and routing of cables within the pole is not allowed by the utility. Providing a written determination, from the utility provider, that cable routing within the pole is not allowed is sufficient to allow modification of the proposal to route cable outside the pole and painting the cable to match the color of the pole. This provision is based on the Comprehensive Plan and Zoning Code provisions to facilitate the development of communication services for Burien residents while at the same time allowing facilities to be constructed in conformance with utility provider standards and minimize visual impacts on surrounding properties.

The purpose and intent of the Zoning Code to facilitate the provision of telecommunication services, minimize visual impacts on surrounding properties and conform to current utility provider construction and safety standards is furthered by allowing replacement of existing utility poles for placement of Personal Wireless Service Facilities (PWSF) with a utility pole of greater than the fifteen-foot extension provided that the extension is based a written determination by the utility provider that the additional separation is based on utility safety and construction standards.

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Date